



# Oppose Senate Bill 1052

March 17, 2015

Submitted by Heather R. Cascone

Chairmen Crisco and Megna and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 1052, an act concerning Maximum Allowable Cost lists and disclosures by pharmacy benefit managers. We respectfully request you oppose this bill.

Express Scripts is a pharmacy benefits manager or "PBM," and it is our goal to make prescription drugs safer and more affordable. We do this in a variety of ways including promoting the use of generic drugs, operating mail order pharmacies, negotiating discounts from brand drug manufacturers, and designing retail pharmacy networks. We perform these services for the more than 100 million Americans whom we manage benefits for through our clients -- including Fortune 500 employers, health plans, labor unions and governments of all sizes.

I appreciate the opportunity to raise several concerns with Senate Bill 1052. As a pharmacy benefit manager, we use maximum allowable cost benchmarks to ensure a fair reimbursement to pharmacies for generic drugs. MAC pricing was originally developed by state Medicaid programs as they realized that were overpaying for generic medications. Today, 46 Medicaid programs, multiple federal programs, and most private payers use their own MAC benchmark to ensure that the pharmacy industry does not include members that try to overcharge patients for generic medicines.

By definition, MAC is the maximum allowable reimbursement by a PBM for a particular generic drug that is available from multiple manufacturers and sold at different prices. Each manufacturer has its own price for a particular generic drug and these prices can differ extensively by manufacturer. The purpose of MAC pricing is to standardize the reimbursement amount for identical products from various manufacturers, regardless of each manufacturer's price. A MAC list is a common cost management tool that is developed from a survey of wholesale prices existing in the marketplace, taking into account: market share, existing inventory, expected inventories, reasonable profits margins and other factors. Each PBM develops and maintains its own confidential MAC list derived from its specific proprietary methodologies. The purpose of a MAC list is to incentivize pharmacies to negotiate more competitive rates for generic drugs with manufacturers and wholesalers in order to keep overall prices down.

One of the ways that Express Scripts serves patients in Connecticut is as a mail order pharmacy. In doing so, we recognize the importance of, and are subject to MAC pricing ourselves. We are constantly working to make sure we're purchasing products at the lowest possible cost for our plans and patients. Because different manufacturers will charge different amounts for equally interchangeable generic drugs, if a pharmacy buys the higher-priced product, it will not make as large a spread or could lose money. Likewise, if it buys the cheapest generic version of the drug,

it will make more. As a result, MAC pricing functions like watchdog, always incenting pharmacies to keep costs down for patients and payors.

Critics will often fail to acknowledge that MAC prices both decrease and increase frequently. This year, the MAC prices for certain drugs that treat high blood pressure, arthritis, pain and infections all increased for various reasons. In several cases, the wholesalers raised their price. In others, there were issues with nationwide availability for the product. In another, the MAC price increased because of a pharmacy complaint.

It is important for the Committee to understand that many pharmacies in Connecticut do not directly contract with pharmacy benefit managers. Rather, they use group purchasing organizations called pharmacy services administrative organizations (PSAOs) who collectively contract with PBMs. Simultaneously, the PSAOs are serving as the wholesaler to the pharmacies and selling them the drugs for their pharmacies. Simply put, the PSAO sells the pharmacy the inventory AND administers the contract for reimbursement at the pharmacy. If there is an egregious difference between the amounts a pharmacy pays to procure and drug and the amount they are reimbursed in return, we cannot have a complete dialogue without having the PSAO present to address their dual role in the supply chain.

Pharmacies are doing well in Connecticut and we regularly have new pharmacies apply to join the Express Scripts network to serve our patients. But this growth is due to competition in the market, and not the kind of policies in HB 1052. If MAC information is publicized, it would have an anti-competitive effect on insurers and employers, as well as PBMs. Competing plans, wholesalers, pharmacies and others would have access to others' pricing information. According to the FTC, this would drive up drug prices for employers and consumers. In a letter to the Mississippi House of Representatives in 2011 about a similar type of disclosure, the FTC warned that pharmacies and manufacturers will be less likely to offer "deals" when they know that everyone they do business with can see the terms of the deal and will likely demand the same terms.

It's also important to note that while there may be anecdotal evidence of instances where a pharmacy, because of their purchasing decisions, was not reimbursed enough to make a profit on an individual claim, it is also true that Express Scripts has to pay pharmacies more than we can contractually bill our clients and that there are instances where a pharmacy made \$25 on an individual claim. Unfortunately, no industry or company is guaranteed a profit on every sale. Any business owner, a pharmacy or otherwise, will remain in business as long revenues exceed expenses and that's the case for every pharmacy here today.

It is for these reasons that we respectfully oppose SB 1052. If you have any questions or future concerns, please do not hesitate to contact me at (201) 269-6401 or at [heather\\_cascone@express-scripts.com](mailto:heather_cascone@express-scripts.com). Thank you for consideration of our views.